

## **STUDY OF EMPLOYMENT RESTRICTIONS IN PUBLIC ASSISTANCE PROGRAMS - BACKGROUND MEMORANDUM**

The Legislative Assembly approved 2015 House Concurrent Resolution No. 3049 ([Appendix A](#)) which provides the Legislative Management study issues relating to employment restrictions in public assistance programs. Provisions of the resolution indicate that because workforce shortage issues are a major challenge for business development in the state, the study should determine a means to allow employees to work additional hours without automatically losing public assistance benefits.

### **PREVIOUS STUDIES**

The 2007-08 interim Human Services Committee, pursuant to Section 3 of 2007 Senate Bill No. 2186, studied the temporary assistance for needy families (TANF) program administered by the Department of Human Services. The study reviewed sustainability of current services and programs funded by TANF funds, potential programs that could be funded with TANF funds, and the need of increased assistance to TANF recipients who are attending a postsecondary institution of learning. The committee received information regarding federal qualified work activity required for TANF; TANF funding; program recipients; various benefit components; a history of TANF benefits; program sanctions; and TANF cases closed due to reaching the maximum number of benefit months. The committee learned North Dakota's work participation rate in August 2007 was 50.64 percent. The committee reviewed contracts for employment and training services and learned participants may use education as an allowable activity for a period of time.

The committee learned the TANF program may be used to address areas of worker shortage in North Dakota. Successful welfare-to-work programs emphasize employment and provide a wide range of services that include a strong education and training component. The job opportunities and basic skills (JOBS) program is the employment and training component of the state's TANF program which helps TANF recipients become economically self-sufficient. Through the JOBS program, the Department of Human Services has the ability to match TANF clients with various career options. The committee received information regarding other states' TANF initiatives. The committee learned:

- New Mexico "Education Works" program is used as an educational option for recipients of TANF.
- Arkansas "Work Pays" program provides assistance to prior TANF recipients in an effort to increase the percentage of recipients that are self-sufficient after leaving the TANF program.

The committee received information regarding strategies to maintain state flexibility despite federal TANF work participation rules. The committee learned strategies include:

- Work engagement strategies involve becoming more aggressive in engaging clients more quickly in work activities. An example of this type of strategy is the diversion assistance program that assists individuals to become employed before needing TANF benefits.
- Targeting or "take-out" strategies involve programs that focus efforts on increasing the effective engagement of those TANF recipients most likely to benefit. These programs provide assistance and services to families unlikely to meet work participation requirements or recipients that engage in activities that do not meet federal definitions. Because these individuals are receiving services and benefits under a separate program, they are not included in the TANF caseload.
- Post-employment strategies that allow TANF recipients that are working to be included in the TANF caseload.

The 2007-08 interim Human Services Committee made no recommendations regarding the TANF program study.

### **NATIONAL CONFERENCE OF STATE LEGISLATURES RESEARCH**

Assistance programs such as the supplemental nutrition assistance program (SNAP), TANF, child care assistance, and some tax credits do not necessarily restrict work, but when income increases beyond the eligibility threshold, participants are no longer eligible for assistance. In some cases, the additional income does not offset the loss of benefits. For example, if a TANF cash grant, lost due to increased hours or income, exceeds the additional earnings, the participant has a decrease in net pay and benefits for the month as a result of accepting additional work hours or a wage increase. This drop off in benefits that occurs when a person exceeds the income threshold is often referred to as the "cliff effect."

The National Conference of State Legislatures (NCSL) has conducted research on the "cliff effect" and outlined strategies states use to address this issue. The focus of the research was on the income eligibility thresholds for various programs; how to define or establish those thresholds based on cost of living and a state definition of "self-sufficiency;" and tax credits and other work supports. Some states have been examining this issue closely in their child care assistance programs and have established phase-out or tiered levels of eligibility to allow a person to gradually transition off assistance as their wages go up. State policies to counteract the "cliff effect" in public programs prepared by NCSL in 2011 is attached as ([Appendix B](#)) and summarized below.

### **Review Eligibility Levels and Include Phase Outs**

The National Conference of State Legislatures' research indicated that in order to lessen the effects of a sudden loss of benefits, some states have increased the eligibility limit so that it is more closely tied to the amount needed to meet self-sufficiency guidelines; phased out benefits by establishing sliding scales and gradually lowering benefit amounts; or aligned eligibility across programs so that families do not lose all benefits at once. States have also revised asset tests and exemptions for vehicles and child support.

### **Define Financial Self-Sufficiency**

Financial self-sufficiency, the income level a family requires to meet their basic needs without public assistance, puts the "cliff effect" in context. Some states use 200 percent of the federal poverty guideline, while other states factor in the varying costs of living by geography, household size, and ages of children. The Center for Women's Welfare at the School of Social Work, University of Washington, has created a Self-Sufficiency Standard, defined as the income needed for a family to meet its basic needs without any public or private assistance. The standard takes into account the age and composition of the family and includes the costs of all major budget items.

A standard could be used as a benchmark to identify the "cliffs" and serve as the target income level at which public programs should expire.

### **Provide Work Supports That Bridge the Gap**

Work supports refer to those policies and programs that families can receive while working and serve as a supplement to their wage earnings. According to NCSL, the most common include child care assistance; SNAP; tax credits; and other housing, transportation, and health care programs. The programs are effective at helping families meet their basic needs, however eligibility can be lost before a family is able to meet those needs on wages alone. Providing work supports and aligning eligibility with self-sufficiency goals can help bridge the gap between earnings and self-sufficiency. While worker supplement programs usually include cash assistance to former or current TANF recipients, earnings disregards do not necessarily provide any additional cash support, but allow for a certain amount of increased earnings before they lose eligibility.

In the TANF program, earnings disregards may be used to incentivize work. In addition to incentivizing work, policy changes in some states have allowed the states to count participants toward their work participation rate. According to a May 2010 United States Government Accountability Office report, 49 states reported that they have earned income disregards, and 10 of those states made changes to their policies since fiscal year 2006. Specifically, nine states increased the amount of income disregarded, and one began indexing the amount disregarded on an annual basis. No states reported that they had decreased or eliminated their earned income disregards since fiscal year 2006.

## **CONGRESSIONAL RESEARCH SERVICE REPORT ON TEMPORARY ASSISTANCE FOR NEEDY FAMILIES**

The TANF block grant helps states fund, among other benefits and services, cash assistance for needy families with children. While there are some federal rules that determine who may qualify for TANF-funded cash assistance, states determine the financial eligibility criteria and cash assistance benefit amounts. Income thresholds that determine whether a family is eligible for cash assistance and the benefit amounts paid vary widely among states.

The Congressional Research Service published a report on TANF ([Appendix C](#)) in July 2014. The report includes a July 2012 summary by state of maximum monthly earnings to be eligible for TANF cash assistance; maximum monthly earnings to retain eligibility for cash assistance after 1, 4, and 13 months on the job; maximum monthly cash assistance benefits; maximum combined TANF and SNAP benefits; and a history of maximum aid to families with dependent children/TANF cash assistance benefits.

The Congressional Research Service report indicated that in July 2012, the majority of states (28 states and the District of Columbia) required that a single parent caring for two children earn less than \$795 per month (an earnings level representing about one-half of the 2012 poverty-level income) to qualify for benefits. States often

permit families with a working member who obtains a job while receiving benefits to remain eligible for TANF at higher earnings levels, though in many states such eligibility is retained for a limited period of time. States also usually require that a family has assets below a specified amount in order to qualify for benefits. In July 2012, 27 states and the District of Columbia required applicant families to have \$2,000 or less in assets to qualify for benefits. The asset limit for a new applicant single parent caring for two children in North Dakota was \$6,025 in July 2012. In most states, including North Dakota, the value of at least one of the family's cars is not counted toward the state's asset limit. In July 2012, the median state for maximum benefits for a single parent of two children was North Dakota, where the maximum benefit of \$427 ranked 26<sup>th</sup> among the 50 states and District of Columbia and represented 27 percent of monthly poverty-level income. Temporary assistance for needy families program maximum benefits not only vary greatly by state, but there is also an apparent regional pattern to benefit amounts. States in the south tend to have the lowest benefit payments; states in the northeast have the highest benefits. Though the 1996 welfare reform law that created TANF revamped many of the rules for cash assistance for needy families, states determined income eligibility rules and maximum benefit amounts even before enactment of the law. Large variations among the states in benefit amounts also existed before the 1996 welfare law. The regional pattern to benefit amounts, with relatively low benefits in the south, also existed under pre-TANF law.

According to the Congressional Research Service report, cash assistance benefit amounts for needy families are not automatically adjusted for inflation by the states, and have lost considerable value in terms of their purchasing power over time. From 1981 to 2012, the inflation-adjusted value of cash assistance benefits for needy families in the median state declined by 44 percent. Some of this decline occurred before the 1996 welfare law. Between 1981 and 1996, the value of cash assistance benefits had already declined by 28 percent. Food assistance benefits under SNAP offset some of this decline. However, from 1981 to 2012, the value of the combined cash and food assistance benefit for a family of three in the median state declined by 18 percent in inflation-adjusted terms.

In 2012, the maximum earnings thresholds for applicants were below the federal poverty level in all states except Wisconsin. For the other contiguous 47 states and the District of Columbia, maximum earnings thresholds for a single parent caring for two children ranged from \$1,447 per month in Nevada (91 percent of poverty-level income) to \$268 per month in Alabama (16.8 percent of poverty-level income). The median state was South Dakota, at \$771 per month (about 48.5 percent of poverty-level income). In a majority of states (28 states and the District of Columbia), earnings of \$795 per month, representing one-half of poverty-level income, disqualify a family of three from receiving assistance. In North Dakota, the maximum earnings threshold for a single parent caring for two children was \$1,142 per month (71.8 percent of poverty-level income), ranking the state seventh highest among the contiguous 48 states and the District of Columbia.

## **JOB OPPORTUNITIES AND BASIC SKILLS PROGRAM**

The job opportunities and basic skills program is the employment and training component of the state's TANF program.

Unless determined to be exempt, individuals who receive a TANF cash grant are required to participate in the JOBS program. Exceptions to this requirement include: a caretaker or parent over age 65, a caretaker or parent of a child younger than 4 months of age, and teens who are enrolled in school fulltime.

The job opportunities and basic skills program participants are required to complete a minimum number of hours each week in one or more of the approved work activities, including: job readiness; job search; paid employment; high school; general educational development (GED); education directly related to employment; job skills directly related to employment; on-the-job training; vocational training; unpaid work experience; community service; or child care for another participant involved in community service. Involvement in education and training is limited and must be approved by a JOBS program coordinator.

Unless responsible for the care of a child who is younger than six years of age, participants must complete a minimum average of 30 hours per week in one or more approved work activities. If caring for a child under age six, an individual must complete a minimum average of 20 hours per week in an approved work activity.

The job opportunities and basic skills program offers some supportive services to help participants become self-sufficient. Supportive services include: transportation, child care, job readiness, relocation, and tuition assistance; money for license, certification and examination fees; tools for employment; and care of incapacitated household members. Some of these supportive services can be provided to former TANF participants for up to six months after their TANF case closes in order to help them succeed in the workforce.

Individuals who fail or refuse to participate in the JOBS program without a good reason, can be sanctioned. A sanction takes the sanctioned individual's financial needs out of the TANF grant for one month. If the sanctioned individual fails to demonstrate cooperation with JOBS program requirements in the penalty month, the entire case will be closed and the sanctioned individual and their household will be ineligible for TANF for one additional month. After reapplying for TANF, no individual in the household will be eligible for a TANF benefit until the sanctioned individual cooperates with JOBS program requirements.

## **NORTH DAKOTA LABOR FORCE**

Job Service North Dakota published its annual [North Dakota Workforce Review](#) in June 2015. The report examines population trends, labor force statistics, occupational group changes, and industry changes for either 10-year or 20-year (or both) time periods. The publication also presents individual industry breakouts to examine employment, wages, establishments, and demographic changes in more detail. Information is presented by region to provide a perspective of statewide trends and their base in various parts of the state. For purposes of the report, the labor force comprises all individuals ages 16 and over who are either employed or unemployed and actively seeking employment. The data does not account for other factors such as those that are under-employed, students, family caregivers, and the unemployed not seeking work. Other common economic measures include the labor force participation rate and the unemployment rate. The labor force participation rate refers to the proportion of people included in the labor force as a proportion of the entire population ages 16 and over. The unemployment rate refers to the unemployed portion of the labor force as a percentage of the total labor force.

In 2014, the state's labor force included 404,864 employed and 11,503 unemployed individuals. North Dakota has historically had a higher labor force participation rate than the national average, with the gap between the two increasing since the early 2000s. After the Great Recession in the late 2000s, North Dakota experienced a small dip from a high of 74.4 percent in 2008 down to 72.6 percent in 2010. During the same time period, the national labor force participation rate fell from 66.0 percent in 2008 to 64.7 percent in 2010. In North Dakota, the rate has remained relatively flat through 2014, while the national rate has gradually decreased. In 2014, North Dakota ranked 1<sup>st</sup> in the nation for labor force participation with an adjusted rate of 72.8 percent, while West Virginia ranked 50<sup>th</sup> with a rate of 53.2 percent.

North Dakota has maintained a very low unemployment rate in recent years. Much like the state's labor force participation, North Dakota's unemployment has historically outperformed the national average, even more so since 2006. After the Great Recession, North Dakota reached a high in 2009 of 4.1 percent and dropped to 2.8 percent in 2014, the lowest in the nation. The national unemployment rate reached a high in 2010 of 9.6 percent and has since dropped to 6.2 percent in 2014. Mississippi and Nevada were tied for 49<sup>th</sup> place with a rate of 7.8 percent. According to the Job Service North Dakota report, the top five industries by highest average employment in the state in 2014 were health care and social assistance, retail trade, accommodation and food services, construction, and educational services. Employment in these five industries is also projected to increase more than other industries in the state between 2012 and 2022.

In addition to the annual review, Job Service North Dakota publishes a monthly job report. The report is a snapshot of the state's current labor market and summarizes nonfarm payroll employment estimates for North Dakota and its three metro areas (Bismarck, Fargo, Grand Forks). The *Jobs Report* is updated each month using data extracted from the Current Employment Statistics Program. In June 2015, the most recent data available, total employment in North Dakota increased to 470,200, from 468,300 in June 2014. While mining and logging employment decreased, increases in construction, retail trade, and other services more than offset the reduction.

Labor force and unemployment statistics available on the Job Service North Dakota website ([Appendix D](#)) provide information regarding the state's labor force and unemployment by county. A copy of the county unemployment rate map for June 2015 is attached as [Appendix E](#).

## **STUDY PLAN**

The committee may wish to proceed with this study as follows:

1. Gather and review information regarding public assistance programs that limit hours worked or income, including limitations, whether the limitations are imposed by the state or federal government, and benefit levels.
2. Gather and review information regarding jobs available in the state, including monthly wage and whether the jobs require specific skills, education, or training.

3. Gather and review information regarding employed participants enrolled in assistance programs, including the state's work participation rate, a comparison of number of participants by county-to-county unemployment rates, and the number of employed participants sorted by earnings range.
4. Gather and review information regarding an update on the JOBS program, including number of participants, number of hours logged for various types of work activities, cost, and average number of months individuals participate in the program.
5. Gather and review information regarding possible public assistance program modifications that would allow recipients to increase employment hours without dramatic benefit reductions or that would incentivize recipients to accept increases in the number of hours worked, when available, including information regarding the feasibility of adopting variances to federal limitations, and the cost of modifications and variances to the state.
6. Develop committee recommendations and prepare any legislation necessary to implement the committee recommendations.
7. Prepare a final report for submission to the Legislative Management.

ATTACH:5